

THERAPEUTIC USE OF CANNABIS ADVISORY COUNCIL
ORGANIZATIONAL MEETING
MINUTES

The Therapeutic Use of Cannabis Advisory Council met on Thursday, September 26, 2013 at 2:00 p.m. in Rooms 205-207 of the Legislative Office Building.

Members in attendance were as follows:

Representative James R. MacKay (Chair)
Representative Don “Ted” Wright
Michael Holt, NH Department of Health and Human Services (Clerk)
Robert Andelman, MD, NH State Board of Medicine
Lieutenant John Encarnacao, NH Department of Safety
Devon Chaffee, Esquire, NH Civil Liberties Union
Stuart Glassman, MD, NH Medical Society
Peter Gosline, Community Hospital
Andrew Shagoury, Public Member
Colette Horgan, a NH Hospital Representative

Attending for the NH Department of Justice was Attorney Lisa Wolford, for Attorney James Vara. Attorney Wolford abstained from voting pending receipt by the House Clerk’s Office of the Attorney General’s appointment letter designating Attorney Vara as his designee to serve on the Advisory Council.

Commissioner Nick Toumpas, NH Department of Health and Human Services, convened the meeting at 2:03 p.m. Including a preview of agenda topics being covered at the organizational meeting, Commissioner Toumpas provided introductory remarks followed by a roundtable introduction of the Advisory Council members.

ELECTION OF CHAIR:

The first order of business was the election of the Chair of the Advisory Council. Commissioner Toumpas requested a motion for nomination of Chair. Representative Wright made a motion to nominate Representative MacKay as Chair. Attorney Chaffee seconded that motion. On a unanimous 10-0 vote, MOTION ADOPTED. Representative MacKay then appointed Mr. Holt as Clerk of the Advisory Council.

LEGAL AND ETHICAL CONSIDERATIONS AND REQUIREMENTS:

Attorney Jeanne Herrick, NH Department of Justice, presented to the Advisory Council using hard copies from slides of a PowerPoint presentation captioned, “Navigating New Hampshire’s Ethical Laws.” Included in her discussion was an overview of financial disclosure (RSA Chapter 15-A), gifts, honorariums, and expense reimbursements (RSA Chapter 15-B), and state code of ethics (RSA 21-G through RSA 21-G:35). She discussed the need to avoid conflicts [of interests], particularly with the competitive procurement process involved in the legislation, and that RSA 15-A applies to Advisory Council members thus requiring the filing of a financial disclosure statement with the Secretary of State. Hard copies of the financial disclosure statement form were provided to the Advisory Council members.

After the conclusion of Attorney Herrick’s presentation, Representative MacKay reviewed with the Advisory Council members parliamentary procedure for conducting meetings including maintaining

civility and decorum and asking to be recognized by the Chair regarding questions and other communications.

OVERVIEW OF ADVISORY COUNCIL’S ENABLING LEGISLATION (RSA 126-X:9):

Michael Holt, Rules Coordinator, NH Department of Health and Human Services, presented to the Advisory Council members on the duties and responsibilities of the Advisory Council as set forth in RSA 126-X:9. Mr. Holt provided the Advisory Council members with a three-page table that identified Advisory Council responsibilities, timeframes (pre-/post-implementation), and comments. He lead a discussion on the four major responsibilities of the Advisory Council: (1) Assist the Department in adopting and revising rules to implement the Therapeutic Use of Cannabis Program (“Program”); (2) collect information (11 items set forth in legislation); (3) make recommendations to the Legislature and the Department for any additions or revisions to the Department rules or the chapter [RSA Chapter 126-X]; and (4) five years after the effective date of the chapter [July 23, 2018] issue a formal opinion on whether the Program should be continued or repealed.

As an additional responsibility of the Advisory Council, Mr. Holt discussed the annual reporting requirement whereby the Advisory Council shall provide a report to the Department, the Health and Human Services Oversight Committee, the Board of Medicine, and the Board of Nursing on its findings.

As part of his “comment” section, Mr. Holt was able to identify specific resources or primary leads serving on the Advisory Council to facilitate collection of information as part of the on-going research function of the Advisory Council.

As to the scope of collection of information, Dr. Glassman inquired whether the Advisory Council’s focus would be on obtaining existing research or would it be state-owned research based upon New Hampshire statistics.

COMMISSIONER’S INTRODUCTION AND OVERVIEW OF PROJECT MANAGEMENT AND BUSINESS MODEL APPROACH:

First, Commissioner Toumpas provided an overview of a generic Business Plan Outline (“BPO”) document. All documents referred to in this section of the minutes were distributed or made available to the Advisory Council and attendees in the gallery prior to the start of the meeting. Commissioner Toumpas emphasized that the BPO provides a framework for a disciplined approach to implementing a business plan or model for the Program. Noting that the legislation defines the architecture of the Program, he discussed that the BPO is a working document with the expectation of revisions as the business model continues to be developed. Commissioner Toumpas identified that projecting the size of the population to be served under the Program is a critical question needing an answer moving forward.

Second, Commissioner Toumpas then reviewed a diagram captioned, “HB 573 Milestones.” The document provided a visual depiction of the deliverables identified in the legislation particularly the timeframes for adoption of agency rules for the registry and issuance of identification cards for qualifying patients and their designated caregivers (12 months from the effective date of the chapter - July 23, 2014), and for adoption of rules and procurement for certification and regulation of Alternative Treatment Centers (“ATC’s”) (18 months from the effective date of the chapter - January 23, 2015).

Third, Commissioner Toumpas then reviewed a process map captioned, “Therapeutic Cannabis Program Diagram.” The process map vertically displayed the process – level 1 headings as follows: Eligibility; Register; Treatment; and Review and Reporting. The process map horizontally displayed how each of these process headings related to the Patient, ATC’s , and Designated Caregiver.

During the Commissioner's presentation, Mr. Gosline inquired of the role and expectations for the Advisory Council. Mr. Holt fielded the inquiry referring back to the table on the Advisory Council's responsibilities he presented on earlier in the meeting. Mr. Holt discussed the need for the Advisory Council's input involving the development of agency rules.

Attorney Chaffee inquired about the expected timeframes involved in the implementation process requesting more details. Mr. Holt discussed the timelines for the two sets of rules for the registry and ATC's including the development of internal deadlines still needing to take place. For the registry, proposed rules need to be submitted by May [2014] to be adopted by the July [2014] date set forth in the legislation. Where the ATC's rules and procurement are on the same 18-month timetable, consideration will need to be made to move up adoption of the ATC's rules to an earlier date based upon available resources. He discussed that the dates will become clearer in time.

Commissioner Toumpas commented that due to no appropriations being provided for in the legislation that there is a direct incentive to get this done before the end of the current biennium to begin generating revenues to fund the Program.

Mr. Shagoury inquired as to individuals to be tracked by the registry. Mr. Holt referred to the legislation that provides for including qualifying patients and their caregivers. Mr. Holt distinguished that agents or employees of ATC's would be screened through criminal background checks but would not be included in the registry. Mr. Holt then highlighted other security considerations and anticipated safeguards around implementation and certification of the ATC's.

Dr. Glassman sought clarification regarding no private pay being available for participation with the Program and fee adjustments or prioritization for low-income qualifying patients. Mr. Holt confirmed that private insurance is not available for this Program and that the pricing issue, or a 2-price structure based upon level of income, is undetermined at this point in time.

Attorney Chaffee commented on the importance of protecting and safeguarding registry information – flagging this as an issue for on-going discussion with the Advisory Council.

Dr. Glassman commented on the importance to determine measurable outcomes for the Program vis-à-vis the 5-year report to be issued by the Advisory Council on whether to continue or sunset the Program.

Commissioner Toumpas highlighted the importance of examining best practices in other states and to utilize them as a resource to reduce implementation costs/efforts.

2014 LEGISLATIVE VEHICLE FOR COUNCIL RECOMMENDATION FOR MECHANICAL OR TECHNICAL CHANGES TO BRING CLARITY AND GREATER EFFICIENCY TO THE PROGRAM'S BUSINESS MODEL [RSA 126-X:9, II(c)]:

Attorney John Williams, Director of Legislative Affairs, NH Department of Health and Human Services, presented draft language for the Advisory Council's review and the Department's requested endorsement by the Advisory Council. The proposal identified two technical barriers to implementation of the Program: (1) Amend RSA 126-X:4, III, to deal with a timing issue between the Department's required 15-day action on an application received from a designated caregiver to make it also conditioned upon receipt of the applicant's criminal history records check results [approximately 21-day turnaround ideal case scenario based on the Department of Safety's experience]; and (2) repeal RSA 126-X:7, VI, to remove the confidentiality restrictions regarding the location of the ATC's for necessary public disclosure

for municipal planning and zoning and other public vetting purposes consistent with other language within the same section of the legislation.

Attorney Chaffee raised concerns during the presentation that there needed to be a time limit set forth in the amendment to insure prompt processing of a designated caregiver's application and submission by the Department requesting the Department of Safety to conduct the required criminal history records check. After a brief recess, the Advisory Council was presented with an additional amendment to RSA 126-X:4, II(g), as follows [change in relevant sentence in ***bold italic*** text]:

The department shall submit the criminal history records release form and fingerprint form, ***within 5 business days***, to the division of state police which shall conduct a criminal history records check through its records and through the Federal Bureau of Investigation.

The Advisory Council separated the question on the Department's requested endorsement for each of the two amendments. Mr. Shagoury moved the question and recommended the Advisory Council support [ENDORSE] the amendment regarding the "criminal records check" including the language regarding the 5 business days for the Department to submit the criminal history records check forms to the Department of Safety. Representative Wright seconded the motion. On a unanimous 10-0 vote, MOTION TO ENDORSE ADOPTED.

Next, the Advisory Council acted on the Department's request seeking endorsement of the repeal of the current legislation's provision regarding confidentiality of the ATC's locations. Mr. Shagoury moved to support [ENDORSE] this requested change. As a co-sponsor to HB 573, Representative Wright provided the Advisory Council with a better understanding of the well-intended background behind the underlying language - to promote security of the ATC's and privacy for qualifying patients and designated caregivers, however, he acknowledged the Department's practical concerns that this would act as a barrier for implementation. He then moved to second the motion. On a unanimous 10-0 vote, MOTION TO ENDORSE ADOPTED.

CLOSING REMARKS, DATE OF NEXT MEETING AND ADJOURNMENT:

Representative MacKay discuss tentative agenda items for the next meeting:

- Administrative rulemaking process/ RSA Chapter 541-A Overview – Michael Holt, Rules Coordinator, NH Department of Health and Human Services; and
- Outcome measurements from other states (National Conference of State Legislatures – NCSL representative as available).

Representative MacKay adjourned the meeting at 4:15 p.m.

Next meeting scheduled for Thursday, October 24, 2013 at 2 p.m. (Legislative Office Building Room(s) to be determined based upon availability).